

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**



B5

DATE: **JUL 16 2012** OFFICE: TEXAS SERVICE CENTER

FILE: 

IN RE: Petitioner:
 Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability pursuant to section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center (Director). It is now on appeal before the Chief, Administrative Appeals Office (AAO). The appeal will be summarily dismissed.

The petitioner is an IT consulting company. It seeks to permanently employ the beneficiary in the United States as a software engineer and requests that he be classified as an advanced degree professional pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). "Advanced degree" is defined in the regulation at 8 C.F.R. § 204.5(k)(2) as follows:

Advanced degree means any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree. If a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree.

As required by statute, the petition was accompanied by an ETA Form 9089, Application for Permanent Employment Certification, approved by the United States Department of Labor (DOL).

The Director denied the petition on the ground that the beneficiary did not have the minimum educational requirement specified on the labor certification – namely, a master's degree in computers, mathematics, science, engineering, finance, commerce, or business, or a foreign educational equivalent. The Director concurred with an evaluation submitted by the petitioner from an educational credentials evaluation service, which concluded that the beneficiary's two post-secondary degrees in India were equivalent to a U.S. bachelor's degree with a dual major in business administration and information technology. As noted by the Director, the labor certification did not state that the petitioner would accept a bachelor's degree and five years of progressive work experience in lieu of a master's degree.

A timely appeal, Form I-290B, was filed on April 11, 2012. On the appeal form the petitioner indicated that an educational evaluation and other documents would be submitted within 30 days. No such materials were submitted within 30 days. Nor did the petitioner make any written request to the AAO for additional time to file a brief directly with the AAO, in accordance with the regulations at 8 C.F.R. §§ 103.3(a)(2)(vii) and (viii). Three months have passed since the appeal was filed, and the AAO has received nothing further from the petitioner.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) provides that an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

In this case the petitioner has not identified any erroneous conclusion of law, nor any erroneous factual finding, in the Director's decision. The petitioner has not provided any additional evidence to be considered on appeal. In accordance with 8 C.F.R. § 103.3(a)(1)(v), therefore, the appeal must be summarily dismissed.

Page 3

ORDER: The appeal is summarily dismissed.